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Dean Logan's Blog

A Reporter's Privilege for Twitterers?

Posted by David Logan on 09/30/2009 at 12:00 AM

The hectic life of a law dean leaves little time for scholarly reflection. Nevertheless, when I was asked to participate in a First Amendment workshop sponsored by the Southeast Association of Law Schools this summer, I agreed because for some time I have been interested in how the law adapts to changes in how news is disseminated. (I wrote an essay on the "24-hour news cycle" that appeared in a symposium on the impact of technology on Media Law while I was still on the faculty at Wake Forest:

[ALL MONICA, ALL OF THE TIME: THE 24-HOUR NEWS CYCLE AND THE PROOF OF CULPABILITY IN LIBEL ACTIONS](#), *University of Arkansas at Little Rock Law Review* (2000).

One controversial Media Law issue is whether reporters should have a privilege to refuse to comply with a subpoena seeking the name of a confidential source, an issue put in stark relief by the [jailing of New York Times reporter Judith Miller](#) and the [home incarceration of RI television newsmen Jim Taricani](#) for refusing to comply with judge's orders. Although Miller and Taricini worked for traditional media, I am especially interested in whether such a privilege, if available, would apply to reporting via the internet, especially when the source is a "citizen journalist." This topic seemed especially timely given that users of cell phones and Twitter managed to circumvent the [Iranian government's crackdown on the traditional media](#) during massive pro-democracy demonstrations.

My co-panelists (Keith Werhan from Tulane and James Fleissner from Mercer) debated the need for a reporter's privilege in federal courts, while I focused on whether the privilege should extend to new media, like blogs and Twitter. The [op-ed published last week in the Boston Globe](#) summarizes my thoughts on the issue.